

**PROCEEDING BEFORE JANE L. CLINE,  
INSURANCE COMMISSIONER OF THE  
STATE OF WEST VIRGINIA**

**IN RE: MARKET CONDUCT EXAMINATION OF  
WEST VIRGINIA NATIONAL AUTO INSURANCE COMPANY**

**ADMINISTRATIVE PROCEEDING 09-MAP-00001**

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION**

NOW COMES Jane L. Cline, Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for West Virginia National Auto Insurance Company, hereinafter referred to as WVNAIC, for the period ending December 31, 2007 based upon the following findings, to wit:

**PARTIES**

1. Jane L. Cline is the Insurance Commissioner of the State of West Virginia (the "Insurance Commissioner") and is charged with the duty of administering and enforcing the provisions of Chapter 33 of the West Virginia Code of 1931, as amended.

2. WVNAIC is a Property and Casualty Insurer authorized by the Insurance Commissioner to transact business in the State of West Virginia as permitted and authorized under Article 1, Chapter 33 of the West Virginia Code.

## FINDINGS OF FACT

1. A Market Conduct Examination of the methods of doing business of West Virginia National Auto Insurance Company for three year period ending December 31, 2007, was conducted in accordance with West Virginia Code Section 33-2-9(c) by examiners duly appointed by the Insurance Commissioner.

2. On October 6, 2008, the examiner filed with the Insurance Commissioner, pursuant to West Virginia Code Section 33-2-9(j)(2), a Report of Market Conduct Examination.

3. On October 6, 2008 a true copy of the Report of Market Conduct Examination (attached hereto as Exhibit A) was sent to WVNAIC by certified mail, return receipt requested, and was received by WVNAIC on October 8, 2008.

4. On WVNAIC was notified that, pursuant to West Virginia Code Section 33-2-9(j)(2), it had thirty (30) working days after receipt of the Report of Market Conduct Examination to file a submission or objection with the Insurance Commissioner.

5. On November 6, 2008 WVNAIC advised the West Virginia Offices of the Insurance Commissioner via telephone that it does not dispute any facts pertaining to findings, comments, results, observations, or recommendations contained in the Report of Market Conduct Examination.

6. The findings contained in the Report of Market Conduct Examination reveal violations of West Virginia Code of State Rules Section 114-14-6.7. These violations occurred with sufficient frequency as to fail the standard under guidelines set forth in the NAIC Market Regulation Handbook.

7. The Examination also revealed violations of West Virginia Code §§ 33-11-4(10), 33-12-1, as well as W. Va. Code St. R. §§ 114-15-4.4(a) (1). The aforementioned violations did not occur with such frequency as to fail the standard.

8. The Insurance Commissioner has determined that the violations of the West Virginia Code and Rule sections referenced in paragraphs 6 and 7 above were unintentional.

9. By entering into this Agreed Order, WVNAIC does not admit to any factual or legal determinations made by the Commissioner; does not admit to any violation of Chapter 33 of the West Virginia Code and reserves all rights and defenses regarding liability or responsibility in any proceedings regarding West Virginia National Auto Insurance Company other than proceedings, administrative or civil, to enforce this Order.

10. WVNAIC waives notice of administrative hearing, any and all rights to an administrative hearing and to judicial review of this matter.

11. Any Finding of Fact that is more properly a Conclusion of Law is hereby adopted as such.

#### **CONCLUSIONS OF LAW**

1. The Insurance Commissioner has jurisdiction over the subject matter of, and the parties to, this proceeding.

2. This proceeding is pursuant to and in accordance with West Virginia Code Section 33-2-9.

3. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such.

## **ORDER**

Pursuant to West Virginia Code Section 33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and West Virginia National Auto Insurance Company's Response, the Insurance Commissioner and West Virginia National Auto Insurance Company have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination.

It is accordingly **AGREED** and **ORDERED** as follows:

That the Report of Market Conduct Examination of West Virginia National Auto Insurance Company is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

That, within thirty (30) days of the entry date of this Agreed Order, West Virginia National Auto Insurance Company shall file with the Insurance Commissioner, in accordance with West Virginia Code Section 33-2-9(j) (4), affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this AGREED ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION.


That WVNAIC shall ensure compliance with the West Virginia Code and the Code of State Rules. WVNAIC shall specifically cure those violations and deficiencies identified in the Report of Market Conduct Examination. WVNAIC is hereby ordered

to file a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail WVNAIC's changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and incorporate all recommendations of the Insurance Commissioner's examiner and address all violations specifically cited in the Report of Market Conduct Examination.

That the Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry date of this Agreed Order. WVNAIC shall implement reasonable changes to the Corrective Action Plan if suggested by the Insurance Commissioner and the Insurance Commissioner will provide notice to WVNAIC when the Corrective Action Plan has been approved; and

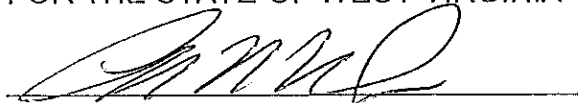
The Insurance Commissioner has determined that WVNAIC shall pay an administrative penalty to the State of West Virginia in the amount of Three Thousand Five Hundred Dollars (\$3500.00) for non-compliance with the West Virginia Code as described herein. The payment of this administrative penalty is in lieu of any other regulatory penalty or remedy.

Entered this 21<sup>st</sup> day of January, 2009.



Jane L. Cline  
Insurance Commissioner

THE PARTIES SO AGREE:  
OFFICE OF THE INSURANCE COMMISSIONER  
FOR THE STATE OF WEST VIRGINIA



Andrew R. Pauley, Associate Counsel

Date 1/16/2009

WEST VIRGINIA NATIONAL AUTO INSURANCE COMPANY

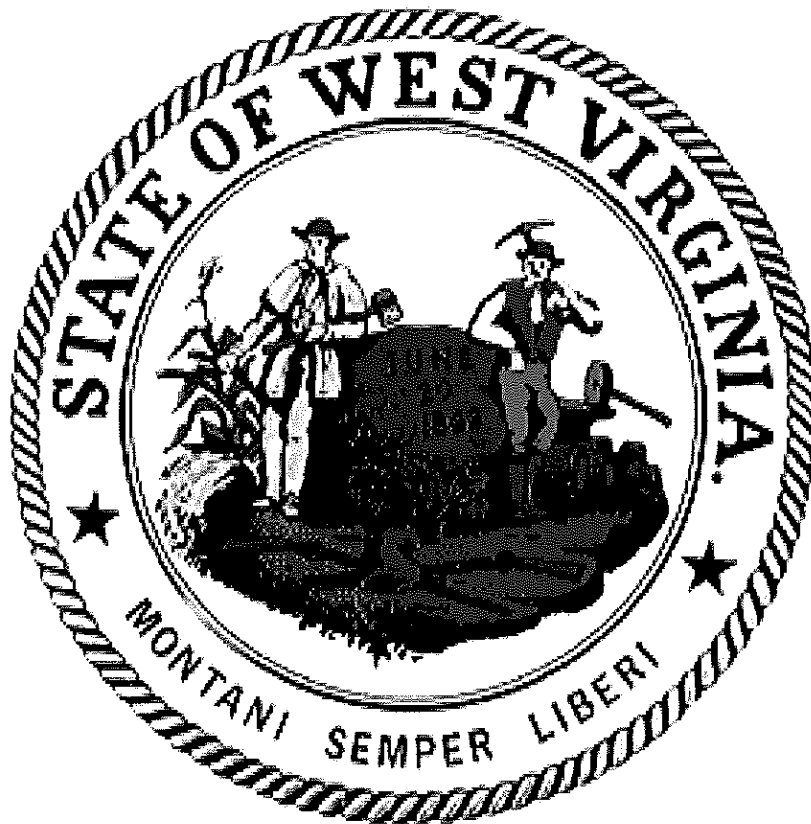
James Buchanan  
Name

President / CEO  
Title

1/16/2009  
Date

# **Report of Market Conduct Examination**

As of December 31, 2007



**West Virginia National Auto Insurance Company**  
330 Scott Avenue Suite 2  
Morgantown, West Virginia 26507

**NAIC COMPANY CODE 10911**  
**Examination Number WV014-M14**

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September 30, 2008

The Honorable Jane L. Cline  
West Virginia Insurance Commissioner  
1124 Smith Street  
Charleston, West Virginia 25301

Dear Commissioner Cline,

Pursuant to your instructions and in accordance with W. Va. Code § 33-2-9, an examination has been made as of December 31, 2007 of the business affairs of

**WEST VIRGINIA NATIONAL AUTO INSURANCE COMPANY**

330 Scott Avenue Suite 2  
Morgantown, West Virginia 26507

hereinafter referred to as the "Company" or "WVNAIC". The following report of the findings of this examination is herewith respectfully submitted.

## **PREVIOUS EXAMINATION FINDINGS**

The prior examination of the Company by the West Virginia Offices of Insurance Commissioner ("WVOIC") was conducted as of June 30, 2002. The report of that examination disclosed seven (7) recommendations for corrective actions to be made by the Company. The recommendations and the determination of the Company's actions by this examination are as follows:

### **Recommendation A-1**

It is recommended that the Company formalize its internal audit function for each of the Company's business areas.

*This examination determined the Company has adequately addressed this recommendation and has formalized its internal audit and internal control functions.*

### **Recommendation A-3**

It is recommended that the Company develop a written procedural manual or guide for anti-fraud activity.

*The Company has developed a written policy for corporate fraud. However, it has not developed a written procedural manual or guide for identifying and reporting insurance fraud. The Company has not adequately addressed the recommendation of the prior examination.*

### **Recommendation D-2 (formerly F-3)**

It is recommended that the Company conform its business practices to W. Va. Code § 33-12-23 by either paying commissions directly to its licensed resident agents or securing an appropriate assignment.

*This examination determined the Company has adequately addressed this recommendation and obtains a signed assignment from each producer to issue payments to the applicable agency.*

### **Recommendation F-2A**

The Company establish an internal control mechanism to ensure that the eligibility notices required by W. Va. Code § 33-6-31c are issued in a timely manner.

*This examination determined the Company has adequately addressed this recommendation and has implemented mechanisms to ensure eligibility notices are issued on a timely basis.*

### **Recommendation G-6**

It is recommended that the Company fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract in accordance with W. Va. Code St. R. § 114-14-4. It is further recommended that the Company appropriately document such disclosures in the claims files as required by W. Va. Code St. R. § 114-14.3.1.

*This examination determined the Company has adequately addressed this recommendation and discloses pertinent benefits, coverages or other provisions to its first party claimants.*

**Recommendation G-12 (formerly G-7)**

It is recommended that the Company use reservation of rights letters when appropriate.

*This examination determined the Company has adequately addressed this recommendation and utilizes reservation of rights letters when appropriate.*

**Recommendation G-13 (formerly G-8)**

It is recommended that the Company reimburse insureds upon subrogation recovery in a timely manner.

*This examination determined the Company has adequately addressed this recommendation and reimburses insureds upon subrogation recovery in a timely manner.*

## **EXECUTIVE SUMMARY**

This examination is the second market conduct examination of the Company by the State of West Virginia. The examination fieldwork began June 23, 2008, and concluded on July 17, 2008. Thirty-two (32) standards were tested during the examination; the Company passed thirty (30) and failed two (2). Six (6) additional areas warranted a recommendation. The major areas of concern are:

- The Company does not record complaints received directly from consumers;
- The Company does not consistently follow its underwriting guidelines on policies issued for its fire line of business.
- The Company does not provide notices of delays in investigation to claimants.

## **SCOPE OF EXAMINATION**

The basic business areas reviewed under this examination were:

- A. Company Operations/Management
- B. Complaint Handling
- C. Marketing and Sales
- F. Underwriting and Rating
- G. Claims

Each business area has standards that the examination measured. Some standards have specific statutory guidance, others have specific Company guidelines, and yet others have contractual guidelines.

The examination focused on the methods used by the Company to manage its operations for each of the business areas subject to this examination. This includes an analysis of how the Company communicates its instructions and intentions to its staff, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the resulting findings of the measurement and monitoring activities. The examiners also determine whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus is then made on those areas in which the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance. Most areas are nevertheless tested to see that the Company complies with West Virginia statutes and rules.

This was a target market conduct examination and focused on the Company's compliance to recommendations of the prior market conduct examination, practices on notices of delays in investigation to claimants due to changes in West Virginia statutes, and the areas of underwriting and rating and claims handling for the Company's fire line of business.

This examination report is a report by test rather than a report by exception. This means that all standards tested are described and the results indicated.

## **HISTORY AND PROFILE**

The Company was incorporated on April 29, 1998, and commenced business on June 1, 1998. The Company is domiciled in the state of West Virginia. Its primary goal at conception was to write private passenger automobile insurance in the non-standard market.

On September 3, 2004, the WVOIC authorized the Company to write fire insurance. Its first fire insurance policy was written on June 8, 2007.

The Company is a 100% owned subsidiary of WVA National Company, L.L.C., a West Virginia Limited Liability Company. The Company markets its products through independent agents located throughout West Virginia. The Company has no branch offices; all underwriting, claims handling and administrative functions are handled in the home office.

The reinsurance treaties between the Company and its reinsurer relating to its automobile line of business terminated effective May 15, 2001, on a run-off basis. The Company will continue to pay the ceded premiums on all policies with an inception date of May 15, 2001 and prior. As of December 31, 2007, the Company has no reinsurance on new or renewal business related to its automobile line of business after May 15, 2001.

In May of 2007, the Company entered into contracts to reinsure losses and loss adjustment expenses paid under the new dwelling fire line of business. Its reinsurance agreement with Scor Re calls for the Company to cede 80% of premiums written and losses and loss adjustment expenses incurred under these policies, with the exception of the Mine Subsidence Coverage, on a quota share basis. It is mandatory for the Company to offer Mine Subsidence Coverage with its new dwelling fire line of business; this coverage is reinsured 100% with the West Virginia Board of Risk and Insurance Management.

## **METHODOLOGY**

This examination is based on the standards and tests for a market conduct examination of a property and casualty insurer found in Chapters 16 and 17 of the NAIC Market Regulation Handbook and in accordance with West Virginia statutes and rules.

Some standards were measured using a single type of review, while others used a combination or all types of review. The types of review used in this examination fall into three general categories: Generic, Sample, and Electronic.

A “Generic” review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A “Sample” review indicates that a standard was tested through direct review of a random sample of files using automated sampling software. For statistical purposes, an error tolerance level of 7% was used for claims and a 10% tolerance was used for other types of review. The sampling techniques used are based on a 95% confidence level.

An “Electronic” review indicates that a standard was tested through use of a computer program or routine applied to a download of computer records provided by the examinee. This type of review typically reviews 100% of the records of a particular type.

Standards were measured using tests designed to adequately measure how the Company met certain benchmarks. The various test utilized are set forth in the NAIC Market Regulation Handbook for a property and casualty insurer. Each standard applied is described and the result of testing is provided under the appropriate standard. The standard, its statutory authority under West Virginia law, and its source in the NAIC Market Regulation Handbook are stated and contained within a bold border.

Each standard is accompanied by a “Comment” describing the purpose or reason for the Standard. “Results” are indicated, examiners “Observations” are noted, and in some cases, a “Recommendation” is made. Comments, Results, Observations and Recommendations are kept with the appropriate standard.

### **A. COMPANY OPERATIONS/MANAGEMENT**

**Comments:** The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner.

This portion of the examination is designed to provide a view of how the Company is structured and how it operates and is not based on sampling techniques. Many troubled companies have become so because management has not been structured to adequately recognize and address problems that can arise. Well-run companies generally have processes that are similar in structure. While these processes vary in detail and effectiveness from company to company, the absence of them or the ineffective application of them is often reflected in failure of the various standards tested throughout the examination. The processes usually include:

- A planning function where direction, policy, objectives and goals are formulated;
- An execution or implementation of the planning function elements;
- A measurement function that considers the results of the planning and execution; and
- A reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operations.

**Standard A 1**

*NAIC Market Regulation Handbook – Chapter 16, § A, Standard 1.*

**The company has an up-to-date, valid internal or external audit program.**

*W. Va. Code § 33-33-3 and 33-33-4*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement as it pertains to annual audited financial statements. A company that has no internal audit function lacks the ready means to detect structural problems until after problems have occurred. A valid internal or external audit function and its use is a key indicator of competency of management, which the Commissioner may consider in the review of an insurer.

**Results: Pass**

The Company's internal control and audit policy and procedures were obtained and reviewed.

**Observations:** The Company has a written Internal Audit Procedure which adequately addresses its internal controls and audit procedures for its major business areas, including the internal audits of agencies which represent the Company. Additionally, the Company has written procedures for its internal audits of the claims area.

The Company has adequately addressed the prior examination recommendation.

**Recommendations: None**

**Standard A 3**

*NAIC Market Regulation Handbook – Chapter 16, § A, Standard 3.*

**The company has an antifraud plan in place.**

**Comments:** The review methodology for this standard is generic. The standard does not have a direct statutory requirement. Written procedural manuals or guides and antifraud plans should provide sufficient detail to enable employees to perform their functions in accordance with the goals and direction of management. Appropriate antifraud activity is important for asset protection as well as policyholder protection and is an indicator of the competency of management, which the Commissioner may consider in the review of an insurer. Further, the

insurer has an affirmative responsibility to report fraudulent activities of which it becomes aware.

**Results:** *Pass with recommendations*

The Company's fraud policy and procedures and the claims procedures and guidelines were obtained and reviewed. The Company stated it had reported certain fraudulent activities to the appropriate department at the WVOIC.

**Observations:** The prior examination report recommended the Company reduce its antifraud practices to a formal written policy and procedures document. This examination has determined the Company has formalized a policy for corporate fraud but has no formal document for handling potential insurance fraud. It was also noted the Company's claims processing guidelines do not address the identification and reporting of potential insurance fraud. As a result, this examination could not verify the Company was in compliance with all requirements of W. Va. Code § 33-41-5 and W. Va. Code St. R. § 114-71.

**Recommendations:** It is recommended the Company formalize all aspects of its antifraud practices into a written policy and procedures manual to address all requirements of applicable West Virginia statutes and administrative rules. It is also recommended the Company address the antifraud policy in its claims guidelines.

**Standard A 7**

*NAIC Market Regulation Handbook – Chapter 16, § A, Standard 7.*

**Records are adequate, accessible, consistent, and orderly and comply with state record retention requirements.**

*W. Va. Code St. R. §§ 114-14-1 et seq. and 114-15-1 et seq.*

**Comments:** The review methodology for this standard is generic. The standard has some direct statutory requirements. This standard is intended to assure that an adequate and accessible record exists of the Company's transactions. The focus is on the records and actions considered in a market conduct examination, such as, but not limited to, trade practices, claim practices, policy selection and issuance, rating, and complaint handling. Inadequate, disorderly, inconsistent, and inaccessible records can lead to inappropriate rates and other issues, which can provide harm to the public.

**Results:** *Pass*

The Company utilizes various electronic means to store all data and correspondence relating to its policy files and claims files.

**Observations:** The electronic information was readily accessible and understood. The Company maintains its files and records in accordance with W. Va. Code St. R. 114-15-4 seq.

**Recommendations:** None

**Standard A 9***NAIC Market Regulation Handbook – Chapter 16, § A, Standard 9.***The company cooperates with examiners on a timely basis.***W. Va. Code § 33-2-9; W. Va. Code St. R. § 114-15-1 et seq.*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is aimed at assuring that the Company is cooperating with the State in the completion of an open and cogent review of the Company's operations in West Virginia. Cooperation with examiners in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely fashion and minimizing cost.

**Results:** *Pass*

**Observations:** Responses to requests for information were prompt. Access to all personnel was made available to the examiners.

**Recommendations:** None

**B. COMPLAINT HANDLING**

**Comments:** Evaluation of the standards in this business area is based on Company responses to various information request and complaint files at the Company. In this business area, "complaints" includes "grievances." W. Va. Code § 33-11-4(10) requires the Company to "...maintain a complete record of all the complaints which it has received." The statute also requires that "this record shall indicate the total number of complaints, their classification by line of business, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint." West Virginia statutes define a complaint as "...any written communication primarily expressing a grievance."

**Standard B 1***NAIC Market Regulation Handbook – Chapter 16, § B, Standard 1.***All complaints are recorded in the required format on the company complaint register.***W. Va. Code § 33-11-4(10)*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company keeps formal track of complaints or grievances as required by statute. An insurer is required to maintain a complete record of all complaints received. The record must indicate the total number of complaints since the last examination, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.

**Results:** *Pass with recommendations*

The Company's complaint log was obtained and reviewed. It was compared to the complaint records of the WVOIC for the period under examination with no exceptions noted.



**Observations:** The Company maintains a complaint log for those received through the WVOIC. However, the Company does not include written complaints received directly by the Company. This does not comply with the requirements of W. Va. Code § 33-11-4(10).

**Recommendations:** It is recommended the Company maintain its log for all complaints received directly as well as through the WVOIC as required by W. Va. Code § 33-11-4(10).

**Standard B 3**

*NAIC Market Regulation Handbook – Chapter 16, § B, Standard 3.*

The company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.

*W. Va. Code § 33-11-4(10) & W. Va. Code St. R. § 114-14-5.2*

**Comments:** The review methodology for this standard is sample. The standard does not have a direct statutory requirement. Since the disposition of information is required to be noted in the complaint log, reasonable disposition is implied. This standard is concerned with whether the Company deals with the subject matter in a complaint/grievance.

**Results:** Pass

The Company's records of the entire population of twelve (12) complaints were reviewed.

**Table B3 Complaints Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Complaints	12	0	12	0	100%

**Observations:** It was determined the Company's responses were timely and complete; the complaint file was adequately documented. The Company responses were appropriate and complied with all applicable statutes, rules and policy provisions.

**Recommendations:** None

**Standard B 4**

*NAIC Market Regulation Handbook – Chapter 16, § B, Standard 4.*

The time frame within which the company responds to complaints is in accordance with applicable statutes, rules and regulations.

*W. Va. Code § 33-11-4(10) & W. Va. Code St. R. § 114-14-5.3*

**Comments:** The review methodology for this standard is sample. The standard has a direct statutory requirement. This standard is concerned with whether the Company has made a timely response to complaints/grievances. In the case of complaints (grievances) concerning claims, direct time requirements are found in W. Va. Code St. R. § 114-14-5.3. West Virginia's Consumer Service section uses fifteen (15) working days as the standard timeframe for responses to complaints.

**Results:** Pass

The Company's records of the entire population of twelve (12) complaints were reviewed.

**Table B4 Complaints Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Complaints	12	0	12	0	100%

**Observations:** The Company responded to all complaints within fifteen (15) working days, which meets the WVOIC standard.

**Recommendations:** None

### **C. MARKETING AND SALES**

**Comments:** The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to evaluate the representations made by the Company about its product(s). It is not typically based on sampling techniques but can be. The areas to be considered in this kind of review include all media (radio, television, videotape, etc.), written and verbal advertising, and sales material.

**Standard C 1**

All advertising and sales materials comply with applicable statutes, rules and regulations.

*NAIC Market Regulation Handbook – Chapter 16, § C, Standard 1.*

*W. Va. Code § 33-11-1 et seq. & W. Va. Code St. R. § 114-9-1 et seq.*

**Comments:** Review methodology for this standard is generic. The standard has a direct insurance statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentation. It is concerned with all forms of media (print, radio, television, etc.).

The prior examination report disclosed no issues or recommendations regarding the Company's marketing and sales materials for its automobile lines of business. Therefore, this examination limited its review to the marketing and sales materials relating to the Company's fire line of business.

**Results:** *Pass*

The Company provided sixteen (16) pieces of advertising materials utilized during the examination period. All were reviewed.

**Observations:** It was determined all advertising relating to the Company's fire line of business are in compliance with applicable statutes, rules and regulations.

**Recommendations:** None

**Standard C 2****Company internal producer training materials comply with applicable statutes, rules and regulations.***NAIC Market Regulation Handbook – Chapter 16, § C, Standard 2.**W. Va. Code § 33-11-1 et seq. & W. Va. Code St. R. § 114-9-1 et seq.*

**Comments:** Review methodology for this standard is generic. The standard has a direct insurance statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentation. It is concerned with training or instructional representations made by the Company to its producers.

**Results:** *Pass*

Internal producer training materials were included in the total population of sixteen (16) advertising pieces during the examination period. All items were reviewed.

**Observations:** It was determined internal producer training materials relating to the Company's fire line of business are in compliance with applicable statutes, rules and regulations.

**Recommendations:** None

**Standard C 3****Company communications to producers comply with applicable statutes, rules and regulations.***NAIC Market Regulation Handbook – Chapter 16, § C, Standard 3.**W. Va. Code § 33-11-1 et seq. & W. Va. Code St. R. § 114-9-1 et seq.*

**Comments:** Review methodology for this standard is generic. The standard has a direct insurance statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentations. It is concerned with representations made by the Company to its producers in other than a training mode.

**Results:** *Pass*

The written and electronic communications to producers for the Company's fire line of business were obtained and reviewed.

**Observations:** It was determined Company communications to producers relating to the Company's fire line of business are in compliance with applicable statutes, rules and regulations.

**Recommendations:** None

**D. PRODUCER LICENSING**

**Comments:** The evaluation of these standards is based on review of the WVOIC files and the Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to test the Company's compliance with West Virginia producer licensing laws and rules.

For this examination, the review of was limited to the verification of producer licensure and appointment at the point of sale for the fire insurance line of business and the verification of the Company had adequately addressed the prior examination recommendations.

**Standard D 2**

*NAIC Market Regulation Handbook – Chapter 16, § D, Standard 2.*

The producers are properly licensed and appointed (if required) in the jurisdiction where the application was taken.

*W. Va. Code § 33-12-1*

**Comments:** This standard has a direct statutory requirement. As applied in this section, it is not file specific. This standard is aimed at assuring compliance with the requirement that producers be properly licensed and appointed for business solicited in West Virginia.

**Results:** *Pass with recommendations*

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table D 2 Producer Licensing Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	55	5	92%

**Observations:** As described at Underwriting and Rating Standard 27, it could not be readily verified the writing agent/producer was properly licensed and appointed on four (4) fire policies issued during the examination period.

Additionally, the Company accepted business from one (1) producer who was not properly appointed to represent the Company. It was determined this producer was licensed in the State of West Virginia; however, the Company had submitted incorrect license information when it attempted to appoint the producer. As a result, the producer was not properly licensed and appointed in the jurisdiction where the application was taken. The Company is in violation of W. Va. Code § 33-12-1.

In response the prior examination recommendations, the Company has implemented a procedure to obtain signed assignments from each agent to authorize commission payments be made to the applicable agency; no exceptions were noted in the review of the sample of sixty (60) policies. The Company has adequately addressed the recommendation of the prior examination.

**Recommendations:** It is recommended the Company ensure it completes all appointment documentation completely and accurately and reviews applicable notices and electronic databases to verify the appointment has been recorded. Such actions are deemed necessary to ensure compliance with W. Va. Code § 33-12-1.

## E. POLICYHOLDER SERVICES

**Comments:** The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, representations made to the examiner, and file sampling during the examination process. The policyholder service portion of the examination is designed to test a Company's compliance with statutes regarding billing notices, delays, premium refunds, and coverage questions.

For this examination, the Company's practices relating to unearned premiums were reviewed in conjunction with cancelled policies for its automobile line of business. For the period under examination, there were no cancellations of policies issued under the fire insurance line of business.

**Standard E 7** *NAIC Market Regulation Handbook – Chapter 16, § E, Standard 7.*  
Unearned premiums are correctly calculated and returned to appropriate parties in a timely manner and in accordance with applicable statutes, rules and regulations.

**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct insurance statutory requirement.

**Results:** Pass

A sample of sixty (60) cancellations was selected for the detail review of unearned premium to ensure the Company's practices for unearned premium refunds complied with West Virginia statutes and rules and underwriting guidelines.

**Table E 7 Policyholder Service Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Private Passenger Auto In force more than 60 days	60	0	60	0	100%

**Observations:** The Company properly calculated and returned unearned premium refunds in a timely manner.

**Recommendations:** None

## F. UNDERWRITING AND RATING

**Comments:** The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, presentations made to the examiner, and file sampling. The underwriting and rating practices portion of the examination is designed to provide a view of how the Company treats the public and whether that treatment complies with

applicable statutes and rules. It is typically determined by testing a random sample of files and applying various tests to those files. These standards are concerned with compliance issues.

Pursuant to the scope, this examination was targeted to the Company's practices for its new line of business, fire insurance, and verification of the Company's actions taken on the prior examination recommendations. Therefore, this examination performed detail review and testing for all applicable standards on the Company's fire line of business. It also conducted testing on Standard F 2A, for which the prior examination recommended corrective actions, on the automobile line of business. For Standard F 8, this examination reviewed the Company's practices relating to policy cancellations on the automobile line of business; there were no fire insurance policy cancellations during the period under examination.

**Standard F 1**

*NAIC Market Regulation Handbook – Chapter 16, § F, Standard 1.*

The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the company-rating plan.

*W. Va. Code § 33-11-4(7) & W. Va. Code § 33-20-4*

**Comments:** This standard has a direct statutory requirement. It is file specific. It is necessary to determine if the Company complies with the rating systems, which have been filed and approved by the West Virginia Insurance Commissioner. Wide scale application of incorrect rates by a company may raise financial solvency questions or be indicative of inadequate management oversight. Deviation from established rating plans may also indicate a company is engaged in unfair competitive practices.

**Results:** *Pass*

For the examination period, the Company had written one hundred thirty-five (135) policies under its fire line of business. A sample of sixty (60) policies was selected for detail review.

**Table F 1 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** Detail review determined the Company had properly charged rates on all sampled policies in accordance with the rates filed with and approved by the WVOIC and the Company's rating plan.

**Recommendations:** *None*

**Standard F 2**

*NAIC Market Regulation Handbook – Chapter 16, § F, Standard 2.*

All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations.

*W. Va. Code § 33-6-31 & W. Va. Code § 33-6-31c*

**Comments:** Review methodology for this standard is sample. This standard does have a direct insurance statutory requirement. It is necessary to provide insureds with appropriate disclosures,

both mandated and reasonable. Without appropriate disclosures, insureds find it difficult to make informed decisions.

**Results: Pass**

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 2 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** The detail review determined the Company had properly disclosed all matters required by West Virginia statutory authority. It was determined the Company utilizes an automated quote system which requires a quote to be updated if the applicable policy has not been issued within seventy-two (72) hours.

**Recommendations: None**

**Standard F 2A**

The Company notifies policyholders that they may be eligible for standard or preferred policies.

*W. Va. Code § 33-6-31c*

**Comments:** Review methodology for this standard is electronic. This standard has a direct statutory requirement. W. Va. Code § 33-6-31c requires companies which issue substandard automobile policies to notify policyholders that they may be eligible for standard or preferred policies after they have been continuously covered by the company for three years.

**Results: Pass**

The prior examination report disclosed the Company had failed to notify policyholders they may be eligible for preferred policies. The Company provided a listing of three thousand seven hundred eight (3,708) policies for which the letter was issued. This examination utilized the sample selected for the review of cancellations, which provided data for the initial inception of coverage for each policyholder; there were fifteen (15) policies which had been in force for three (3) years. An additional five (5) items were selected from the total list to verify completeness. This resulted in a total sample of twenty (20) letters to verify the listing and the Company's practices.

**Table F 2A Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2002-2005 Private Passenger Auto	60	45	15	0	100%
Additional Items	5	0	5	0	100%

**Observations:** The Company has issued notification letters to policyholders of possible eligibility for preferred rates. The Company adequately addressed the recommendations of the prior examination.

**Recommendations:** None

<b>Standard F 3</b> The Company does not permit illegal rebating, commission cutting or inducements.	<i>NAIC Market Regulation Handbook – Chapter 16, § F, Standard 3.</i> <i>W. Va. Code § 33-11-4(8) W. Va. Code § 33-12-23</i>
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**Comments:** Review methodology for this standard is sample and generic. This standard has a direct insurance statutory requirement. It is generally file specific. Illegal rebating, commission cutting or other illegal inducements are a form of unfair discrimination.

**Results: Pass**

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 3 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** It was determined the Company does not permit illegal rebating, commission cutting or inducements based on the detail review of the sampled policies

**Recommendations:** None

<b>Standard F 4</b> The company underwriting practices are not unfairly discriminatory. The company adheres to applicable statutes, rules, regulations, and company guidelines in the selection of risks.	<i>NAIC Market Regulation Handbook – Chapter 16, § F, Standard 4.</i> <i>W. Va. Code § 33-6-31b W. Va. Code § 33-11-4(7)</i>
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**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct insurance statutory requirement. It is necessary to provide insureds with appropriate protection from unfair discrimination. Inconsistent handling of rating or underwriting practices, including request for supplemental information, even if not intended, can result in unfair discrimination.

**Results: Fail**

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.



**Table F 4 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	52	8	87%

**Observations:** The Company issued eight (8) dwelling/fire policies on a provisional basis by requiring certain actions to bring the property into compliance with underwriting guidelines within thirty (30) days. The Company failed to follow up to ensure the corrective actions had been taken on these policies; it was noted the follow up had occurred on other policies issued on a provisional basis.. The actions of the Company resulted in unfair discriminatory practices in violation of W. Va. Code § 33-11-4(7).

**Recommendations:** It is recommended the Company develop a system to ensure that follow up occurs on all policies issued on a provisional basis and to ensure compliance with the requirements of W. Va. Code § 33-11-4(7).

**Standard F 6***NAIC Market Regulation Handbook – Chapter 16, § F, Standard 6.*

Policies, riders and endorsements are issued or renewed accurately, timely and completely.

*W. Va. Code § 33-6-31b W. Va. Code § 33-11-4(7)*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct insurance statutory requirement. It is necessary to provide insureds with appropriate protection from unfair discrimination. Inconsistent handling of rating or underwriting practices, including request for supplemental information, even if not intended, can result in unfair discrimination.

**Results:** *Pass*

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 6 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** The Company properly issued all policies, riders, and endorsements accurately and completely on a timely basis on all fire policies in the sample selected.

**Recommendations:** *None*

**Standard F 7***NAIC Market Regulation Handbook – Chapter 16, § F, Standard 7.*

Rejections and declinations are not unfairly discriminatory.

*W. Va. Code § 33-11-4(7)(c); W. Va. Code § 33-6A-1; W. Va. Code § 33-17A-4; W. Va. Code § 33-17A-6*

**Comments:** Review methodology for this standard is generic, sample and electronic. This standard does not have a direct insurance statutory requirement. W. Va. Code § 33-6A-1 outlines specific reasons for which companies may cancel policies. Consistent application of the Company's underwriting rules is the primary method used to avoid unfair discrimination.

**Results:** *Pass*

**Observations:** During the review by this examination, no declined or rejected applications for fire insurance were identified.

**Recommendations:** None

**Standard F 8**

*NAIC Market Regulation Handbook – Chapter 16, § F, Standard 8.*

**Cancellation/non-renewal, discontinuance and declination notices comply with policy provisions and state laws and the regulated entity's guidelines, including the amount of advance notice to the insured and other parties to the contract.**

*W. Va. Code § 33-6A-3; W. Va. Code § 33-6A-4; W. Va. Code § 33-17A-5; W. Va. Code § 33-17A-6*

**Comments:** Review methodology for this standard is sample and electronic. This standard has a direct insurance statutory requirement. W. Va. Code § 33-6A-3 requires companies to give each policyholder thirty (30) days notice of cancellation if the policy has been in force for sixty (60) days. Policyholders need sufficient time in the event of a cancellation or non-renewal to replace coverage.

For the period under examination, the Company had no cancellations or nonrenewals for its fire policies other than for nonpayment, which was outside the scope of the examination. Therefore, this examination conducted a detail review on the automobile lines of business only.

**Results:** *Pass with recommendations*

The Company provided a listing of four hundred sixty-eight (468) cancelled automobile policies and a listing of sixty (60) nonrenewed automobile policies. These listings were combined for a total of five hundred and twenty-eight (528) terminated policies for analysis and sample selection. Of the total, thirty-two (32) terminations occurred on policies which were in force for less than thirty (30) days; the entire population for these was reviewed. A sample of sixty (60) policies which were in force more than sixty (60) days at cancellation was selected for detail review.

**Table F 8 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
<b>2005-2007 Private Passenger Auto</b>					
In force less than 60 days	32	0	31	1	97%
In force more than 60 days	60	0	60	0	100%

**Observations:** The Company's cancellation practices for policies in force more than sixty (60) days complied with applicable insurance laws and policy provisions.

The Company improperly cancelled one (1) policy which had been in force for less than sixty (60) days. The policy was cancelled with a pro-rated premium refund because the insured was charged with a hit and run accident, which the insured denied. This does not comply with the West Virginia insurance laws, which stipulate an insured must be convicted of a crime, not merely charged, to warrant a policy cancellation. The Company's underwriting guidelines stipulate underwriting is to follow all applicable West Virginia insurance laws. The Company is in violation of W. Va. Code § 33-6A-1 and its own underwriting procedures.

**Recommendations:** It is recommended the Company follow its own Manual of Rates and Rules, which states "West Virginia National reserves the right to cancel or non-renew any policy in accordance with West Virginia Insurance Laws" to ensure compliance with all applicable insurance laws, including W. Va. Code § 33-6A-1.

<b>Standard F 9</b>	<i>NAIC Market Regulation Handbook – Chapter 16, § F, Standard 9.</i>
<b>Rescissions are not made for non-material misrepresentation.</b>	

**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct insurance statutory requirement. A large number of rescissions can reflect inadequate underwriting practices.

**Results:** *Pass*

For the period under examination, the Company had rescinded one (1) fire policy. This was reviewed for compliance with this standard.

**Table F 9 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	1	0	1	0	100%

**Observations:** The policy was rescinded at the request of the insured.

**Recommendations:** None

<b>Standard F 10: Rating Practices</b>	<i>NAIC Market Regulation Handbook – Chapter 17, § F, Standard 1.</i>
<b>Credits and deviations are consistently applied on a non-discriminatory basis.</b>	
	<i>W. Va. Code § 33-11-4(7)(c)</i>

**Comments:** Review methodology for this standard is sample and generic. This standard has a direct insurance statutory requirement. Insurers must apply their field schedules or rate credits and deviations on a non-discriminatory basis. Consistency is the key in avoiding the appearance or actuality of unfair discrimination.

**Results:** *Pass*

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 10 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** The Company consistently applied credits and deviations on the sample of fire policies.

**Recommendations:** None

**Standard F 11**

*NAIC Market Regulation Handbook – Chapter 17, § F, Standard 2.*

Schedule rating or individual risk premium modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation.

**Comments:** Review methodology for this standard is sample. This standard does not have a direct insurance statutory requirement. Proper documentation of files reduces the likelihood of unfair discrimination.

**Results:** Pass

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 11 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** The Company consistently utilized rates and premium charges that had been filed with and approved by the WVOIC.

**Recommendations:** None

**Standard F 17**

*NAIC Market Regulation Handbook – Chapter 17, § F, Standard 8.*

Underwriting, rating and classification are based on adequate information developed at or near inception of the coverage rather than near expiration, or following a claim.

**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct insurance statutory requirement. In order to properly underwrite

insurance, an insurer is expected to gather accurate information upon submission of the application, including perfected applications and inspection reports.

**Results:** *Pass*

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 17 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** The Company's underwriting process occurred at or near inception.

**Recommendations:** None

**Standard F 20**

*NAIC Market Regulation Handbook – Chapter 17, § F, Standard 12.*

All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the department of insurance (if applicable).

*W. Va. Code § 33-6-31b; W. Va. Code § 33-11-4(7); W. Va. Code § 33-17-2; W. Va. Code § 3-17-8*

**Comments:** Review methodology for this standard is sample. This standard has a direct insurance statutory requirement.

**Results:** *Pass*

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 20 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** For all policies included in the sample, the Company listed all forms and endorsements on the declaration page. These had all been filed with and approved by the WVOIC.

**Recommendations:** None

**Standard F 22**

*NAIC Market Regulation Handbook – Chapter 17, § F, Standard 13.*

The company does not engage in collusive or anti-competitive underwriting practices.

**Comments:** Review methodology for this standard is generic and sample. This standard does not have a direct insurance statutory requirement. This standard is intended to assure that any practice suggesting anti-competitive behavior is not tolerated. This includes engaging in collusive underwriting practices that may inhibit competition, e. g., entering into an agreement with other companies to divide the market within West Virginia by territory.

**Results:** *Pass*

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 22 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** There was no indication the Company engaged in collusive or anti-competitive underwriting practices in the review of the underwriting guidelines or the sample of issued policies.

**Recommendations:** None

**Standard F 26**

*NAIC Market Regulation Handbook – Chapter 17, § F, Standard 176.*

All policies are correctly coded.

**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct insurance statutory requirement. A large number of rescissions can reflect inadequate underwriting practices.

**Results:** *Pass*

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 26 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	60	0	100%

**Observations:** The Company properly coded all fire policies in the sample selected for detail review.

**Recommendations:** None

**Standard F 27**

*NAIC Market Regulation Handbook – Chapter 17, § F, Standard 18.*

Application or enrollment forms are properly, accurately and fully completed, including any required signatures, and file documentation adequately supports the decisions made.

**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct insurance statutory requirement. A large number of rescissions can reflect inadequate underwriting practices.

**Results:** *Pass with recommendations*

From the total population of one hundred thirty-five (135) policies written under the fire line of business, a sample of sixty (60) was selected for detail review.

**Table F 27 Underwriting and Rating Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Dwelling/Fire	60	0	56	4	93%

**Observations:** The Company's producers utilize an electronic format to submit application information to the Company; the producers maintain the original application form which is subject to periodic audits by the Company. Four (4) of the electronic applications of the total sample of fire policies failed to clearly identify the writing producer involved in the transaction as required by W. Va. Code St. R. § 114-15-4.3(a)(1). The producer must be properly licensed and appointed as required by W. Va. Code § 33-12-1.

**Recommendations:** It is recommended the Company modify its system to ensure the writing producer's name and pertinent information is captured and clearly identifiable on the electronic policy application to demonstrate compliance with W. Va. Code § 33-12.1 and W. Va. Code St. R. § 114-15-4.3(a)(1).

## **G. CLAIMS PRACTICES**

**Comments:** The evaluation of standards in this business area is based on Company responses to information requested by the examiner, discussions with Company staff, electronic testing of claim databases, and claim file sampling during the examination process. This portion of the examination is designed to provide a view of how the Company treats claimants and whether that treatment complies with applicable statutes and rules.

For the period under examination, the Company had not received any claims associated with its fire line of business. Therefore, pursuant to the WVOIC directions, this examination reviewed claims on the automobile lines of business to verify the Company had adequately addressed prior examination recommendations and was in compliance with W. Va. Code St. R. § 114-14-6.7 regarding the utilization of investigation delay notices to claimants.

**Standard G 6***NAIC Market Regulation Handbook – Chapter 16, § G, Standard 6.*

Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.

*W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-1 et seq.*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement.

**Results: Pass with recommendations**

For the period under examination, the Company had issued payments on three thousand nine hundred sixty-two (3,962) claims on its automobile line of business. It was determined one thousand nine hundred sixteen (1,916) of these claims were reported to the Company after March 31, 2006. Of these, settlement occurred over forty-five (45) days after the reported date on five hundred forty-three (543) claims; from these, a sample of sixty (60) claims was selected through ACL for detail review pursuant to the WVOIC directions.

**Table G 6 Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Auto Claims	60	0	59	1	98%

**Observations:** The Company had not made a determination of liability on one (1) claim for sixty-five (65) days after receipt of the loss notice. The claim file provided no evidence the Company had issued a delay of investigation letter as the investigation continued beyond thirty (30) calendar days from the receipt of the loss report; this notice is required to be sent to the claimant within fifteen (15) working days after the thirty-day period expires. This failure is a violation of W. Va. Code St. R. § 114-14-6.7.

**Recommendations:** It is recommended the Company issue formal written notice to claimants when its investigation is delayed beyond thirty (30) days after receipt of notice, as required under W. Va. Code St. R. § 114-14-6.7.

**Standard G 9***NAIC Market Regulation Handbook – Chapter 16, § G, Standard 9.*

Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.

*W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-6.3, 6.4 & 6.7*

**Comments:** Review methodology for this standard is generic. This standard has a direct statutory requirement.

**Results: Fail**

For the period under examination, the Company had closed one thousand four hundred one (1,401) claims without payments on its automobile line of business. It was determined six hundred ninety-five (695) of these claims were reported to the Company after March 31, 2006. Of these, the file was closed on 149 claims over forty-five (45) days after the reported date; from



which, pursuant to the WVOIC directions, a sample of sixty (60) claims was selected through ACL for detail review.

**Table G 9 Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Auto Claims	60	0	55	5	92%

**Observations:** The Company did not make a determination of liability on four (4) claims, which were closed without payment, within thirty (30) calendar days of the receipt of loss notice. The claim files provided no evidence the Company had issued a delay of investigation letter; such notification to the claimant is required to be sent within fifteen (15) working days after the thirty-day period expires. For one (1) of these claims, the determination was not made within ninety (90) days of the receipt of loss notice; pursuant to West Virginia Administrative rules, the Company is required to have issued two (2) letters on the delay of investigation. These failures resulted in five (5) violations of W. Va. Code St. R. § 114-14-6.7.

Additionally, the file for one (1) claim, which was closed without payment, contained inadequate documentation to evidence the Company's claim investigation. This file did not comply with the provisions of W. Va. Code St. R. § 114-15-4.4(a)(1).

**Recommendations:** It is recommended the Company issue formal written notice to claimants when its investigation is delayed beyond thirty (30) days after receipt of notice, as required under W. Va. Code St. R. § 114-14-6.7.

It is recommended the Company maintain all claim files pursuant to the requirements of W. Va. Code St. R. § 114-15-4.4(a)(1).

**Standard G 12**

*NAIC Market Regulation Handbook – Chapter 17, § G, Standard 1.*

**Company uses the reservation of rights and excess of loss letters, when appropriate.**

*W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-6.5*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement

**Results:** *Pass*

This examination utilized the paid claim sample of sixty (60) claim files to verify utilization of reservation of rights and excess of loss letters.

**Table G 12 Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Auto Claims					
ROR Letter	60	59	1	0	100%
Excess of Loss Letter	60	59	1	0	100%

**Observations:** The Company had properly utilized a reservation of rights letter and an excess of loss letter when applicable. It was determined the Company had adequately addressed the prior examination recommendations.

**Recommendations:** None

**Standard G 13**

*NAIC Market Regulation Handbook – Chapter 17, § G, Standard 2.*

**Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.**

*W. Va. Code § 33-11-4(9)*

**Comments:** Review methodology for this standard is generic. This standard has a direct statutory requirement.

**Results:** Pass

The prior examination report disclosed the Company had not timely reimbursed insured upon subrogation received. For this examination period, five (5) claims involved subrogation receipts for which a reimbursement was due to the insured.

**Table G 13 Claims Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2005-2007 Subrogated Claims	5	0	5	0	100%

**Observations:** For all five (5) subrogated claims, the Company reimbursed the insured within ten (10) days of receipt of subrogation proceeds or the determination that subrogation amounts were uncollectible. The Company had adequately addressed the prior examination recommendations.

**Recommendations:** None

## **LIST OF RECOMMENDATIONS**

### **Recommendation A-3**

It is recommended the Company formalize all aspects of its antifraud practices into a written policy and procedures manual which should address all requirements of applicable West Virginia statutes and administrative rules. It is also recommended the Company address the antifraud policy in its claims guidelines.

### **Recommendation B-1**

It is recommended the Company maintain its log for all complaints received directly as well as through the WVOIC as required by W. Va. Code § 33-11-4(10).

### **Recommendation D-2**

It is recommended the Company ensure it completes all appointment documentation completely and accurately and reviews applicable notices and electronic databases to verify the appointment has been recorded. Such actions are deemed necessary to ensure compliance with W. Va. Code § 33-12-1.

### **Recommendation F-4**

It is recommended the Company develop a system to ensure that follow up occurs on all policies issued on a provisional basis and to ensure compliance with the requirements of W. Va. Code § 33-11-4(7).

### **Recommendation F-8**

It is recommended the Company follow its Manual of Rates and Rules, which states "West Virginia National reserves the right to cancel or non-renew any policy in accordance with West Virginia Insurance Laws" to ensure compliance with all applicable insurance laws, including W. Va. Code § 33-6A-1.

### **Recommendation F-27**

It is recommended the Company modify its system to ensure the writing producer's name and pertinent information is captured and clearly identifiable on the electronic policy application to demonstrate compliance with W. Va. Code § 33-12.1 and W. Va. Code St. R. § 114-15-4.3(a)(1).

### **Recommendation G-6**

It is recommended the Company issue formal written notice to claimants when its investigation is delayed beyond thirty (30) days after receipt of notice, as required under W. Va. Code St. R. § 114-14-6.7.

### **Recommendation G-9**

It is recommended the Company issue formal written notice to claimants when its investigation is delayed beyond thirty (30) days after receipt of notice, as required under W. Va. Code St. R. § 114-14-6.7. It is further recommended the Company maintain all claim files pursuant to the requirements of W. Va. Code St. R. § 114-15-4.4(a)(1).